

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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:  
LINDA LeTOUZEL, :  
*on behalf of herself and all other employees similarly* :  
*situated,* :  
:

Plaintiff, :

- against - :

THE EASTMAN KODAK COMPANY, :

Defendant. :  
-----X

Case No. 05-CV-06464 (MAT)

ECF CASE

**NOTICE OF MOTION**

PLEASE TAKE NOTICE that upon the attached Declaration of Betty C. Hildreth, dated November 1, 2005; and the accompanying Defendant Kodak's Memorandum Of Law in Support of Its Motion to Dismiss the Complaint in Part and to Strike Plaintiff's "Consent to Become a Party Plaintiff", and upon all the prior pleadings and proceedings herein, Defendant Eastman Kodak Company ("Kodak") (incorrectly named as "The Eastman Kodak Company") will move this Court on Wednesday, December 7, 2005 at 9:00 A.M. before the Honorable Michael A. Telesca, United States District Judge, at the United States Courthouse, 100 State Street, Courtroom 2720, Rochester, New York 14614, move this Court (1) to dismiss the state law claims (the Second, Third, and Fourth Causes of Action) from the Complaint of plaintiff Linda LeTouzel ("Plaintiff"), pursuant to Fed. R. Civ. P. ("Rule") 12(b)(1) for lack of subject matter jurisdiction, and pursuant to Rule 12(b)(6) and 12(c) for failure to state a claim upon which relief can be granted and judgment on the pleadings, respectively; (2) to strike and dismiss the class action allegations pursuant to Rule 12(b)(6), 12(c), 12(f) and Rule 23(c)(1) because the state law claims cannot be maintained as a class action; (3) to dismiss the Complaint to the extent it seeks

injunctive relief, pursuant to Rule 12(b)(6) and 12(c); and (4) to strike the form “Consent To Become A Party Plaintiff” attached to the pleadings, pursuant to Rule 12(f). Pursuant to Local Rule 7.1(c) movant intends to file and serve reply papers, therefore opposing papers are to be filed and served at least eight business days prior to the return date.

Dated: November 2, 2005  
New York, New York

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*\* Admission pending*